

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

1. JONATHAN DAVID YBARRA,
2. CHRISTINA N. YBARRA,

Plaintiffs,

v.

1. THREE DIAMOND LEASING, LLC.,
2. JAMES L. STANGE,

Defendants.

Case No.: 17-cv-674-GKF-JFJ

DEFENDANT JAMES L. STANGE'S NOTICE OF REMOVAL

Defendant James L. Stange ("Removing Defendant"), under 28 U.S.C. § 1441(a) and (b) and 28 U.S.C. § 1332, files this Notice of Removal and shows the court as follows:

1. Plaintiffs Jonathan David Ybarra and Christina N. Ybarra filed their Petition on November 3, 2017 against Three Diamond Leasing, LLC. ("Three Diamond") And James L. Stange, in the district court for Creek County, Sapulpa Division, Oklahoma. The case number is CJ-2017-337. Plaintiffs' Petition seeks compensatory damages in excess of \$75,000.

2. Plaintiffs are citizens of Oklahoma.

3. Defendant Stange is a citizen of Kansas. Stange was served on November 16, 2017.

4. Defendant Three Diamond has not been served.

5. Three Diamond is an Oklahoma Limited Liability Company, however, Three Diamond has no connection to this lawsuit and has been fraudulently joined to this lawsuit.

6. Three Diamond had previously owned the vehicle being driven by Stange. Prior to the accident, on October 20, 2015, Three Diamond had sold the vehicle to Daimler Trucks of North America, LLC. (See Exhibit 1, State of Oklahoma Certificate of Title)

7. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a)(1) as Stange is not a citizen of Oklahoma.

8. Three Diamond has been fraudulently joined to this action as Three Diamond had previously sold the truck and no longer retained any interest in the truck. Therefore, Three Diamond is not a properly joined party to this action and their consent to removal is not required pursuant to 28 U.S.C. § 1446 (b)(2)(A).

9. Stange was not employed by, hired by or had any relationship with Three Diamond and, therefore, Three Diamond has no connection to this lawsuit. (See Exhibit 2, Declaration of David Miller)

10. The following is a complete list of the process and pleadings filed in case number CJ-2017-337.

- a. Exhibit 3 – Petition.
- b. Exhibit 4 – Summons issued to James L. Stange.
- c. Exhibit 5 – Special Entry of Appearance and Reservation of Time for James L. Stange.
- d. Exhibit 6 – Copy of State Court Docket Sheet.

11. Contemporaneous with the filing of this Notice, Removing Defendant will mail a copy of this Notice of Removal for filing in the District Court of Creek County, Oklahoma. Removing Defendant will also provide a copy of this Notice to Plaintiff.

12. Removing Defendant also demands jury trial on any applicable issues.

Respectfully submitted,

By /s/ William T. McKee
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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of December 2017, I electronically transmitted the foregoing document to the Clerk of the Court using ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Melinda J. Ryan
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P.O. Box 205
Sapulpa, OK 74067

And

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/s/ William T. McKee
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